

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2007-257

AFSANEH TAHA KAMALI
2234 Bahia Drive
La Jolla, CA 92037

and

1501 Via Salerno
Escondido, CA 92026

Registered Nurse No. RN#520080

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on January 17, 2008.

It is so ORDERED December 17, 2007.

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FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
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9 Attorneys for Complainant

10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2007-257

13 AFSANEH TAHA KAMALI
2234 Bahia Drive
14 La Jolla, CA 92037

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 and

16 1501 Via Salerno
Escondido, CA 92026

17
18 Registered Nurse No. RN#520080

19 Respondent.
20

21 In the interest of a prompt and speedy resolution of this matter, consistent with the
22 public interest and the responsibility of the Board of Registered Nursing of the Department of
23 Consumer Affairs the parties hereby agree to the following Stipulated Surrender of License and
24 Order which will be submitted to the Board for approval and adoption as the final disposition of
25 the Accusation.

26 **PARTIES**

27 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
28 the Board of Registered Nursing. She brought this action solely in her official capacity and is

represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
by Antoinette B. Cincotta, Deputy Attorney General.

2. Afsaneh Taha Kamali (Respondent) is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

3. On or about March 5, 1996, the Board of Registered Nursing issued Registered Nurse No. RN#520080 to Afsaneh Taha Kamali (Respondent). The registered nursing license was in full force and effect at all times relevant to the charges brought in Accusation No. 2007-257 and will expire on May 31, 2009, unless renewed.

JURISDICTION

4. First Amended Accusation No. 2007-257 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 17, 2007. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of the First Amended Accusation No. 2007-257 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in First Amended Accusation No. 2007-257. Respondent also has carefully read, and fully understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in the
3 First Amended Accusation No. 2007-257, agrees that cause exists for discipline and hereby
4 surrenders her Registered Nurse License No. RN#520080 for the Board's formal acceptance.

5 9. Respondent understands that by signing this stipulation she enables the
6 Board to issue an order accepting the surrender of her registered nurse license without further
7 process.

8 RESERVATION

9 10. The admissions made by Respondent herein are only for the purposes of
10 this proceeding, or any other proceedings in which the Board of Registered Nursing or other
11 professional licensing agency is involved, and shall not be admissible in any other criminal or
12 civil proceeding.

13 CONTINGENCY

14 11. This stipulation shall be subject to approval by the Board of Registered
15 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
16 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
17 and surrender, without notice to or participation by Respondent. By signing the stipulation,
18 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
19 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
20 this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall
21 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
22 between the parties, and the Board shall not be disqualified from further action by having
23 considered this matter.

24 OTHER MATTERS

25 12. The parties understand and agree that facsimile copies of this Stipulated
26 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
27 and effect as the originals.

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13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. RN#520080,
issued to Respondent Afsaneh Taha Kamali is surrendered and accepted by the Board of
Registered Nursing.

14. The surrender of Respondent's Registered Nurse and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

15. Respondent shall lose all rights and privileges as a registered nurse in California as of the effective date of the Board's Decision and Order.

16. Respondent shall cause to be delivered to the Board both her wall and pocket license certificate on or before the effective date of the Decision and Order.

17. Respondent fully understands and agrees that if she ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in First Amended Accusation No. 2007-257 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

18. Should Respondent ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in First Amended Accusation, No. 2007-257 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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1 19. Respondent shall not apply for licensure or petition for reinstatement for
2 two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

3 20. Respondent shall pay the Board its costs of investigation and enforcement
4 in the amount of \$500.00 prior to issuance of a new or reinstated license.

5 ACCEPTANCE

6 I have carefully read the Stipulated Surrender of License and Order. I understand
7 the stipulation and the effect it will have on my Registered Nurse. I enter into this Stipulated
8 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
9 by the Decision and Order of the Board of Registered Nursing.

10 DATED: 9/25/07.

11
12 Afsaneh Tah Kamali *A. Tah*
13 AFSANEH TAH KAMALI (Respondent)

14
15 ENDORSEMENT

16 The foregoing Stipulated Surrender of License and Order is hereby respectfully
17 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
18 Affairs.

19 DATED: 9/25/2007

20
21 EDMUND G. BROWN JR., Attorney General
22 of the State of California

23 LINDA K. SCHNEIDER
24 Supervising Deputy Attorney General

25 Antoinette B. Cincotta
26 ANTOINETTE B. CINCOTTA
27 Deputy Attorney General

28 Attorneys for Complainant

Exhibit A

First Amended Accusation No. 2007-257

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA SCHNEIDER
Supervising Deputy Attorney General
3 ANTOINETTE B. CINCOTTA, State Bar No. 120482
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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

Case No. 2007-257

14 AFSANEH TAH KAMALI
2234 Bahia Drive
15 La Jolla, CA 92037

FIRST AMENDED
A C C U S A T I O N

16 Registered Nurse License No. RN#520080

17 Respondent.
18

19 Complainant alleges:

20 PARTIES

21 1. Ruth Ann Terry, M.P.H., R.N., ("Complainant") brings this Accusation
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
23 Department of Consumer Affairs.

24 2. On or about March 5, 1996, the Board of Registered Nursing issued
25 Registered Nurse Number RN#520080 to AFSANEH TAH KAMALI (Respondent). The
26 registered nurse license was in full force and effect at all times relevant to the charges brought
27 herein and will expire on May 31, 2009, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse . . . for any of the following:

". . . .

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

6. California Code of Regulations, title 16, section 1444, states:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

"(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160."

7. Penal Code Section 11160, subdivision (d) provides:

"(d) For the purposes of this section, "assaultive or abusive conduct" shall include any of the following offenses:

". . . .

"(17) Child abuse or endangerment, in violation of Section 273a or 273d."

1 8. Section 118, subdivision (b), of the Code provides that the expiration of a
2 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
3 period within which the license may be renewed, restored, reissued or reinstated.

4 9. Section 490 of the Code states:

5 “A board may suspend or revoke a license on the ground that the licensee has
6 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
7 duties of the business or profession for which the license was issued. A conviction within the
8 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
9 contendere. Any action which a board is permitted to take following the establishment of a
10 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
11 been affirmed on appeal, or when an order granting probation is made suspending the imposition
12 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
13 Penal Code.”

14 10. Section 493 of the Code states:

15 “Notwithstanding any other provision of law, in a proceeding conducted by a
16 board within the department pursuant to law to deny an application for a license or to suspend or
17 revoke a license or otherwise take disciplinary action against a person who holds a license, upon
18 the ground that the applicant or the licensee has been convicted of a crime substantially related to
19 the qualifications, functions, and duties of the licensee in question, the record of conviction of the
20 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
21 and the board may inquire into the circumstances surrounding the commission of the crime in
22 order to fix the degree of discipline or to determine if the conviction is substantially related to the
23 qualifications, functions, and duties of the licensee in question.

24 “As used in this section, ‘license’ includes ‘certificate,’ ‘permit,’ ‘authority,’ and
25 ‘registration.’”

26 ///

27 ///

28 ///

1 11. Section 482 provides in relevant part:

2 "....

3 "Each board under the provisions of this code shall develop criteria to evaluate the
4 rehabilitation of a person when:

5 "....

6 (b) Considering suspension or revocation of a license under Section 490.

7 "Each board shall take into account all competent evidence of rehabilitation
8 furnished by the applicant or licensee.

9 12. California Code of Regulations, title 16, section 1445, provides:

10 "(a) When considering the denial of a license under Section 480 of the code, the
11 board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license
12 will consider the following criteria:

13 "(1) The nature and severity of the act(s) or crime(s) under consideration as
14 grounds for denial.

15 "(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under
16 consideration as grounds for denial which also could be considered as grounds for denial under
17 Section 480 of the code.

18 "(3) The time that has elapsed since commission of the act(s) or crime(s) referred
19 to in subdivision (1) or (2).

20 "(4) The extent to which the applicant has complied with any terms of parole,
21 probation, restitution, or any other sanctions lawfully imposed against the applicant.

22 "(5) Evidence, if any, of rehabilitation submitted by the applicant.

23 "(b) When considering the suspension or revocation of a license on the grounds
24 that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of
25 such person and his/her eligibility for a license will consider the following criteria:

26 "(1) Nature and severity of the act(s) or offense(s).

27 "(2) Total criminal record.

28 ///

1 “(3) The time that has elapsed since commission of the act(s) or offense(s).

2 “(4) Whether the licensee has complied with any terms of parole, probation,
3 restitution or any other sanctions lawfully imposed against the licensee.

4 “(5) If applicable, evidence of expungement proceedings pursuant to Section
5 1203.4 of the Penal Code.

6 “(6) Evidence, if any, of rehabilitation submitted by the licensee.

7 13. Penal Code section 647 provides in pertinent part:

8 “Every person who commits any of the following acts is guilty of disorderly
9 conduct, a misdemeanor:

10 “....

11 “(f) Who is found in any public place under the influence of intoxicating liquor,
12 any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug,
13 controlled substance, or toluene, in a condition that he or she is unable to exercise care for his or
14 her own safety or the safety of others, or by reason of his or her being under the influence of
15 intoxicating liquor, any drug, controlled substance, toluene, or any combination of any
16 intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any
17 street, sidewalk, or other public way.”

18 14. Section 125.3 of the Code provides, in pertinent part, that the Board may
19 request the administrative law judge to direct a licensee found to have committed a violation or
20 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
21 and enforcement of the case.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(March 24, 2004 Criminal Conviction - Disorderly Conduct on November 6, 2003)**

24 15. Respondent is subject to disciplinary action under sections 490 and
25 2761(f) in that she was convicted of a crime substantially related to the practice of nursing. The
26 circumstances are as follows:

27 16. On or about March 24, 2004, in a case entitled *People vs. Afsaneh Tah*
28 *Kamali*, Case No. CN171052, San Diego Superior Court, Northern Division, Respondent was

1 convicted on a plea of guilty to one count of violation of Penal Code section 647(f) (disorderly
2 conduct), a misdemeanor.

3 17. The facts and circumstances underlying this conviction are as follows. On
4 or about November 6, 2003 at about 1:00 a.m., San Diego Police responded to a call about an
5 individual that appeared to be drunk in public. The officer who responded to the call observed
6 Respondent at the AM/PM located at 538 Nordahl Road, in Escondido, California wearing no
7 shoes, only socks, and carrying a set of car keys. Respondent told the officer that she walked to
8 the AM/PM. When the officers discovered that the car keys were for a vehicle parked within 15
9 feet of Respondent, and her purse was located in that car, Respondent then told the police
10 officers that her husband drove her to the AM/PM. Respondent was arrested for driving under
11 the influence of alcohol. Breath testing on Respondent revealed a blood-alcohol content of
12 0.17%.

13 18. Respondent was granted summary probation for three years and ordered to
14 pay \$250.00 in fines and serve one day in custody.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(January 12, 2004 Criminal Conviction - Disorderly Conduct**
17 **and Child Endangerment October 26, 2003)**

18 19. Respondent is subject to disciplinary action under sections 490 and
19 2761(f) in that she was convicted of crimes substantially related to the practice of nursing. The
20 circumstances are as follows:

21 20. On or about January 12, 2004, in a case entitled *People vs. Afsaneh Tah*
22 *Kamali*, Case No. CN170039, San Diego Superior Court, North County Division, Respondent
23 was convicted on a plea of guilty to one count of violation of Penal Code section 647(f)
24 (disorderly conduct), a misdemeanor, and one count of violation of Penal Code section 273a(b)
25 (child endangerment), a misdemeanor.

26 21. The facts underlying the conviction are that on or about October 26, 2003,
27 at about 1:30 a.m., Respondent was observed carrying her twenty-two month old son at the AM-
28 PM Market located at 538 Nordahl Road, Escondido, California "acting strange", "drunk tripping

everywhere”, and asking one person “Hold my baby; I’m too drunk to hold him.” San Diego Police Officers responded to the scene and approached Respondent who appeared to be intoxicated. Respondent told the police officers, “I’m not sober. I had a few drinks.” She also reported to the officers that she had taken Trazodone and Xanax. The officers performed field sobriety testing. During the testing, Respondent told the officers that she cannot count in English. Based on the results of the field sobriety testing, the officers performed two breath tests which revealed Respondent’s blood-alcohol content of 0.13% and 0.12%.

22. Respondent was granted summary probation for four years on the disorderly conduct charge and three years on the child endangerment charge. She was ordered to serve one day in custody with the Sheriff, and pay a fine of \$775.00 on the disorderly conduct charge and \$350.00 on the child endangerment charge. She was ordered to totally abstain from drinking alcoholic beverages, not use or possess any controlled substance without a valid prescription, submit to any test at the request of a peace officer for detection of alcohol in system, and complete a parenting class as directed.

PRAAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License No. RN#520080 issued to Afsaneh Tah Kamali.
2. Ordering Afsaneh Tah Kamali to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 7/11/07

Walt Hochberg for
Ruth Ann Terry, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant